



Committee GO

Staff: Robert H. Drummer, Senior Legislative Attorney

Purpose: Receive briefing and have discussion – no vote expected

Keywords: #MoCoLaborRelations

AGENDA ITEM #2

May 14, 2020

Worksession

SUBJECT

Expedited Bill 19-20, Administration – County Executive – Office of Labor Relations - Established
Lead Sponsor: Council President Katz at the request of the County Executive

EXPECTED ATTENDEES

Dale Tibbitts, Special Assistant to the Executive

COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION

- Worksession – guidance to staff expected

DESCRIPTION/ISSUE

Expedited Bill 19-20 would create an Office of Labor Relations in the Executive Branch and transfer certain duties and positions from the Office of Human Resources to the Office of Labor Relations. Although the Office would be in the Office of the County Executive, it would be considered separate from the Office of the County Executive for purposes of budgeting and any reduction-in-force. The Office would be led by the current Chief Labor Relations Officer and the staff would be composed of 7 employees who would be transferred from the Office of Human Resources.

SUMMARY OF KEY DISCUSSION POINTS

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M E M O R A N D U M

May 11, 2020

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney

SUBJECT: Expedited Bill 19-20, Administration – County Executive – Office of Labor Relations - Established

PURPOSE: Worksession – guidance to staff expected

Expected attendees:

Dale Tibbitts, Special Assistant to the Executive

Expedited Bill 19-20, Administration – County Executive – Office of Labor Relations - Established, sponsored by Lead Sponsor Council President at the request of the County Executive, was introduced on April 14, 2020. The Council held a public hearing with one speaker on May 5. Action is tentatively scheduled for May 19.¹

Background

Expedited Bill 19-20 would create an Office of Labor Relations in the Executive Branch. The County Executive wants to emphasize the role and importance of labor-management relations in the County. The Office of Labor Relations would work towards increasing collaboration and positive resolution of labor and employee relations issues and potentially lessening conflict and litigation.

Bill 19-20 would establish an Office of Labor Relations and transfer certain duties from the Office of Human Resources to the Office of Labor Relations. Although the new Office would be part of the Office of the County Executive, it would be considered separate from the Office of the County Executive for purposes of budgeting and any reduction-in-force.

OMB estimates the Bill would not have a fiscal impact on the County because the Chief Labor Relations Officer position was previously created in County law and filled in FY20. In addition, the Office would be staffed by transferring 7 employees from the Office of Human Resources. See, ©8-10.

¹#MoCoLaborRelations

The Bill would require amendments to the Personnel Regulation to shift responsibilities from the Office of Human Resources to the new Office of Labor Relations. The Executive submitted ER 25-19 for Council review and approval to accomplish this. See ©13.

Public Hearing

Dale Tibbitts, Special Assistant to the Executive, speaking on behalf of the Executive, supported the Bill to improve labor relations by transferring 7 employees from Human Resources to the new Office of Labor Relations to support the Chief Labor Relations Officer.

Issues

1. Would the Bill result in filling current positions that are currently vacant?

Councilmember Friedson sent a series of questions to the Executive Branch about this Bill and other Executive Bills. The answers from the Executive Branch are at ©65-70. The Executive Branch explained that all 7 positions that would be transferred from the Office of Human Resources (OHR) to the new Office of Labor Relations (OLR) are currently filled. These 7 employees assisted the Chief Labor Relations Officer during the most recent collective bargaining negotiations with MCGEO and the FOP while still reporting to OHR. Their duties would remain essentially the same in the new OLR, but they would report to the Chief Labor Relations Officer instead of the OHR Director.

2. What is the effect of creating OLR as part of the Office of the County Executive but be considered separate from the Office of the County Executive for purposes of budgeting and any reduction-in-force?

The Bill would expressly create OLR as part of the Office of the County Executive but be considered separate for purposes of the budget and any reduction-in-force (RIF). Creating OLR as a separate part of the budget should not have a practical effect on the operation of the Office. This would avoid making the Office of the County Executive appear to be growing larger during budget deliberations.

Considering OLR separate for a RIF may have a significant effect on the staff if the County goes through a RIF because the abolishment of a position only affects those employees in the same occupational class in the same Department or Office. If a position in OLR is abolished, it would affect only positions in the same occupational class in OLR instead of any position in the same occupational class in the Office of the County Executive. It would work in the reverse if a position in the Office of the County Executive is abolished. There may be administrative positions that would exist in both the Office of the County Executive and OLR that could be affected by this provision.

3. What is ER 25-19?

The current Personnel Regulations describe the duties that would be performed by the new OLR as duties to be performed by OHR. ER 25-19 would change all references to the Office of Human Resources performing labor relations work to the new Chief Labor Relations Officer or the new Office of Labor Relations. If the Council enacts Bill 19-20, approval of ER 25-19 is necessary

to conform the Personnel Regulations to the Bill. ER 25-19 was advertised in the County Register in July 2019 and received no comments.

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Expedited Bill No. 19-20
Concerning: Administration – County
Executive – Office of Labor Relations
- Established
Revised: 4-15-2020 Draft No. 3
Introduced: April 14, 2020
Expires: October 14, 2021
Enacted: [date]
Executive: [date signed]
Effective: [date takes effect]
Sunset Date: None
Ch. [#], Laws of Mont. Co. [year]

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsor: Council President at the Request of the County Executive

AN EXPEDITED ACT to:

- (1) establish an Office of Labor Relations in the Executive Branch;
- (2) transfer certain duties from the Office of Human Resources to the Office of Labor Relations; and
- (2) generally amend the law governing the organization of employees responsible for labor relations in the Executive Branch.

By adding

Montgomery County Code
Chapter 2, Administration
Section 2-25D

By amending

Montgomery County Code
Chapter 2, Administration
Section 2-64I

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 **Sec 1. Section 2-25D is added and Section 2-64I is amended as follows:**

2 **2-25D. Office of Labor Relations.**

3 (a) The Office of Labor Relations is part of the Office of the County
4 Executive. The Office is headed by the Chief Labor Relations Officer.

5 (b) The Office must:

6 (1) formulate and implement the County's labor and employee
7 relations policies;

8 (2) serve as the employer's representative in collective bargaining,
9 including any impasse or interest arbitration;

10 (3) serve as the employer's representative in all matters before the
11 Permanent Umpire and the Labor Relations Administrator,
12 including prohibited practice charges;

13 (4) advise employees, managers, and supervisors on labor and
14 employee relations matters, including implementation of
15 collective bargaining agreements and the personnel regulations;
16 and

17 (5) process grievances arising under a collective bargaining
18 agreement or the personnel regulations.

19 **Division 15. Office of Human Resources.**

20 **Sec. 2-64I. Functions.**

21 The Office of Human Resources has the following functions:

22 (a) Under the administration of the [chief administrative officer] Chief
23 Administrative Officer, supervise the [county] County merit system in
24 accordance with the [county charter] County Charter, local, state and
25 federal laws, rules and regulations.

- (b) Assist all appointing authorities in the implementation of merit system [charter] Charter provisions and the personnel regulations of the [county executive] Executive.
- (c) Assist the [county executive] Executive in the development and administration of a career service and in the administration of a comprehensive management personnel program.
- (d) Provide cooperative personnel services to political subdivisions of Montgomery County or agencies supported in whole or in part by taxes levied by the [county council] Council and to the Montgomery County Revenue Authority.
- (e) Perform related duties as assigned.
- (f) Develop and administer the equal employment opportunity program, unless this responsibility is transferred to the [office of the chief administrative officer] Chief Administrative Officer in accordance with the termination provision of chapter 1, section 5 of the 1981 Laws of Montgomery County.
- [(g) Administer the county employee complaint/grievance procedures.]

Sec. 2. Expedited Effective Date.

The Council declares that this legislation is necessary for the immediate protection of the public interest. This Act takes effect on the date on which it becomes law.

Sec. 3. Transition.

References to the Office of Human Resources in County law or regulation means the Office of Labor Relations regarding those functions assigned to the Office of Labor Relations under this Act. If the Office of Human Resources is processing or deciding a grievance when this Act takes effect, the Chief Administrative Officer

may designate either the Office of Human Resources or the Office of Labor Relations to continue processing or deciding the grievance.

Sec. 4. Budgeting and Reduction-In-Force.

The Office of Labor Relations is separate from the Office of the County Executive for purposes of budgeting and any reduction-in-force.

Approved:

Sidney Katz, President, County Council

Date

Approved:

Marc Elrich, County Executive

Date

This is a correct copy of Council action.

Selena Mendy Singleton, Esq., Clerk of the Council

Date

LEGISLATIVE REQUEST REPORT

Expedited Bill 19-20

Administration – County Executive – Office of Labor Relations - Established

DESCRIPTION: Expedited Bill 19-20 would create an Office of Labor Relations in the Executive Branch.

PROBLEM: The County Executive seeks to place greater emphasis on the role and importance of labor-management relations in the County. The Office of Labor Relations would work towards increasing collaboration and positive resolution of labor and employee relations issues and potentially lessening conflict and litigation.

GOALS AND OBJECTIVES: To create the Office of Labor Relations and transfer certain duties from the Office of Human Resources to the Office of Labor Relations.

COORDINATION: Office of Human Resources, Department of Finance, Office of Management and Budget, Office of the County Attorney

FISCAL IMPACT: Office of Management and Budget

ECONOMIC IMPACT: Office of Legislative Oversight

EVALUATION: N/A

EXPERIENCE ELSEWHERE: N/A

SOURCE OF INFORMATION: Silvia C. Kinch, Office of the County Attorney
101 Monroe Street, Third Floor
Rockville, MD 20850
240-777-6778

APPLICATION WITHIN MUNICIPALITIES: N/A

PENALTIES: N/A




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

MEMORANDUM

March 26, 2020

TO: Sidney Katz, President
Montgomery County Council

FROM: 
Marc Elrich, County Executive

SUBJECT: Proposed Legislation Creating an Office of Labor Relations in the
Executive Branch

On March 19, 2019, the Council enacted Expedited Bill 3-19, which, among other things, created a new non-merit position in the Executive Branch, Chief Labor Relations Officer (CLRO). We subsequently submitted a bill, which would create an Office of Labor Relations (OLR) in the Executive Branch, generally transfer certain duties from the Office of Human Resources to the OLR and make certain other stylistic and technical changes.

I am now submitting the revised bill that adds the uncodified provision that OLR is separate from CEX for budget and RIF purposes.

In creating the CLRO position, it has been my intent to place greater emphasis on the role and importance of labor-management relations in the County as well as to make labor-management relations processes more efficient and effective. In reporting directly to the County's Chief Administrative Officer (CAO), the CLRO is empowered to address labor-management relations matters more expeditiously and efficiently, increasing collaboration and positive resolution of labor and employee relations issues and potentially lessening conflict and litigation. The proposed legislation would clarify that duties that are currently identified by Code to be within the scope of the Office of Human Resources (OHR), but that are more properly within the scope of the CLRO, be formally recognized to be within the scope of the CLRO and the new OLR. This will align relevant Montgomery County Code with the revised scope and responsibilities of OHR and the CLRO.

I am formally submitting regulations reflecting the legislative changes to the Council for approval after publication for notice and comment in the County Register.

Also enclosed is a Legislative Request Report and a Fiscal Impact Statement.

I would appreciate the Council's approval of this Bill.

ME:tjs

Attachments

cc: Andrew Kleine, Chief Administrative Officer
Fariba Kassiri, Deputy Chief Administrative Office
Dale Tibbitts, Special Assistant to the County Executive
Marc P. Hansen, County Attorney
Berke Attila, Director, Office of Human Resources
Rich Madaleno, Director, Office of Management and Budget
Michael Coveyou, Acting Director, Department of Finance
Steven Sluchansky, Chief Labor Relations Officer

**Fiscal Impact Statement
Bill XX-19 Office of Labor Relations**

1. Legislative Summary

Bill XX-19 would create an Office of Labor Relations as a separate, non-principle office and transfer certain duties for the Office of the Human Resources to the Office of Labor Relations, including the functions to

- formulate and implement the County's labor and employee relations policies;
- service as the employer's representative in collective bargaining, including any impasse or interest arbitration;
- serve as the employer's representative in all matters before the Permanent Umpire and the Labor Relations Administrator, including prohibited practice charges;
- advise employees, managers, and supervisors on labor and employee relations matters, including implementation of collective bargaining agreements and the personnel regulations; and
- process grievances arising under a collective bargaining agreement or the personnel regulations.

2. An estimate of changes in County revenues and expenditures regardless of whether the revenues or expenditures are assumed in the recommended or approved budget. Includes source of information, assumptions, and methodologies used.

The proposed bill is not expected to generate an additional fiscal impact. The following positions will be transferred from Office of Human Resources:

<u>Expenditure Estimates</u>	<u>FY20 Costs</u>
Personnel Costs (Positions)	
Human Resources Specialist - (5)	\$605,888
Manager III - (2)	\$363,727
Subtotal	\$969,615
Operating Expenses	\$378,030
Total FY20 Costs	<u>\$1,347,645</u>

Operating expenses include contracts for consultant and arbitration services. The new office will also include an existing Chief Labor Relations Officer position currently located in the funded in the County Executive's Office, created in FY19.

3. Revenue and expenditure estimates covering at least the next 6 fiscal years.

Assuming no changes in resources or cost increases, the estimate for personnel costs is \$5,817,690, and the estimate for operating expenses is \$2,268,180, for a total estimate of \$8,085,870 over the next six fiscal years.

- 4. An actuarial analysis through the entire amortization period for each bill that would affect retiree pension or group insurance costs.**

Not applicable.

- 5. An estimate of expenditures related to County's information technology (IT) systems, including Enterprise Resource Planning (ERP) systems.**

Not applicable.

- 6. Later actions that may affect future revenue and expenditures if the bill authorizes future spending.**

The Bill does not authorize future spending.

- 7. An estimate of the staff time needed to implement the bill.**

Implementation of the bill will require a minimal amount of accounting and personnel assignment system adjustments.

- 8. An explanation of how the addition of new staff responsibilities would affect other duties.**

Not applicable.

- 9. An estimate of costs when an additional appropriation is needed.**

Not applicable.

- 10. A description of any variable that could affect revenue and cost estimates.**

Not applicable.

- 11. Ranges of revenue or expenditures that are uncertain or difficult to project.**

Not applicable.

- 12. If a bill is likely to have no fiscal impact, why that is the case.**

The bill is not likely to have a fiscal impact since the staffing will be transferred from the Office of Human Resources.

- 13. Other fiscal impacts or comments.**

Not applicable.

- 14. The following contributed to and concurred with this analysis:**

Fariba Kassiri, Office of County Executive

Steve Sluchansky, Office of County Executive

Jane Mukira, Office of Department Management and Budget

Naeem Mia, Office of Department Management and Budget

Corey Orlosky, Office of Department Management and Budget



Richard S. Madaleno, Director
Office of Management and Budget


Date

Economic Impact Statement

Office of Legislative Oversight

Expedited Bill 19-20

Administration – County Executive – Office of Labor Relations – Established

SUMMARY

The Office of Legislative Oversight (OLO) expects Expedited Bill 19-20 to have an insignificant impact on the Montgomery County economy.

BACKGROUND

One of the goals of the County Executive is to emphasize the importance of labor-management relations in the County.¹ To this end, Expedited Bill 19-20 would establish the Office of Labor Relations in the Executive Branch, to which certain duties from the Office of Human Resources would be transferred.² The Office of Labor Relations would enhance “collaboration and positive resolution of labor and employee relations issues” and potentially lesson conflict and litigation.³ The Office would be part of the Office of the County Executive. However, for purposes of budgeting and reduction-in-force, it would be “considered separate” from the County Executive’s Office.⁴

INFORMATION, ASSUMPTIONS and METHODOLOGIES

No methodologies were used in this statement. The assumptions underlying the claims made in the subsequent sections are based on the judgment of OLO staff.

VARIABLES

Not applicable.

IMPACTS

Businesses, Non-Profits, Other Private Organizations

OLO believes that Expedited Bill 19-20 would have little to no impact on private organizations in the County in terms of the Council’s priority indicators, namely workforce, operating costs, capital investments, property values, taxation policy, economic development and competitiveness.

¹ Montgomery County Council, Expedited Bill No. 19-20 Administration – County Executive – Office of Labor Relations - Established, Montgomery County, Maryland, 5.

² Ibid, 1.

³ Ibid, 5.

⁴ Ibid, 4.

Economic Impact Statement

Office of Legislative Oversight

Workforce, operating costs, property values, capital investment, taxation policy, economic development, competitiveness, etc.

Residents

Employment, property values, taxes paid, etc.

OLO believes that Expedited Bill 19-20 would have little to no impact on County residents in terms of the Council's priority indicators, namely employment, property values, and taxes paid.

WORKS CITED

Montgomery County Council. Expedited Bill No. 19-20 Administration – County Executive – Office of Labor Relations – Established. Montgomery County, Maryland.

CAVEATS

Two caveats to the economic analysis performed here should be noted. First, predicting the economic impacts of legislation is a challenging analytical endeavor due to data limitations, the multitude of causes of economic outcomes, economic shocks, uncertainty, and other factors. Second, the analysis performed here is intended to *inform* the legislative process, not determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

CONTRIBUTIONS

This economic impact statement was drafted by Stephen Roblin (OLO).




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

MEMORANDUM

October 16, 2019

TO: Nancy Navarro, President
Montgomery County Council

FROM: Marc Elrich, County Executive 

SUBJECT: Executive Regulation – 25-19 Amendments to the Personnel Regulations

On March 19, 2019, the Council enacted Expedited Bill 3-19, which, among other things, created a new non-merit position in the Executive Branch, Chief Labor Relations Officer (CLRO). Recently I submitted to the Council a proposed bill, creating the Office of Labor Relations (OLR) in the Executive Branch, a legislative request report, a fiscal impact statement and an economic impact statement.

Attached for the Council's approval is Executive Regulation 25-19 which amends the personnel regulations to include the newly created Office of Labor Relations. The proposed regulation was advertised in the July Register and no public comments were received.

ME:tjs

AttachmentS



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

PERSONNEL REGULATIONS

Issued by: County Executive

Regulation No. 25-19

COMCOR No. 33.07.01

Authority: Montgomery County Code (2014) Section 33-7(b)

Supersedes: Executive Regulation 12-00AM (in part)

Council Review: Method (1) under Code Section 2A-15

Register Vol. 36 No. 7

Effective Date:

Comment Deadline: 7/12/19

Summary:	This regulation amends the personnel regulations to include the newly created Office of Labor Relations.
Staff contact:	Silvia Kinch, Chief, Division of Human Resources, OCA (240) 777-6778
Address:	Office of the County Attorney Executive Office Building 101 Monroe Street, Third Floor Rockville, Maryland 20850
Background:	The Montgomery County Code authorizes the County Executive to promulgate personnel regulations.

COMCOR 33.07.01 PERSONNEL REGULATIONS

33.07.01.01 Definitions

- 1-1. ADA: The Americans with Disabilities Act, a Federal law enacted to address discrimination against individuals with disabilities.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Personnel Regulations	Number 25-19
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* * *

- 1-47. OLR: The Office of Labor Relations.
- 1-48. Overall rating: A summary rating in the employee's performance evaluation that best describes the employee's overall level of performance during the period covered by a performance plan.
- 1-49. Paid time off (PTO): A type of leave granted to MLS employees in the Retirement Savings Plan that may be used as sick or annual leave.
- 1-50. Part-time employee: An incumbent of a part-time position.
- 1-51. Part-time position: A career position, including a term position that:
- (a) requires employment for 20 to 39 regularly scheduled hours per week on a continuing year-round or school-year basis; or
 - (b) is specially designated by the CAO and requires regular employment for 10 to 20 hours per week on a continuing year-round or school-year basis and approval by the Merit System Protection Board (MSPB).
- 1-52. Pay period: The official 2-week reporting period for time and attendance that determines the employee's biweekly compensation.
- 1-53. Performance evaluation: A supervisor's written evaluation of an employee's performance in relation to the expectations in the employee's performance plan. An evaluation may be an interim or annual evaluation. An interim evaluation may be conducted at any time during the review period.
- 1-54. Personnel action: An act or omission by a supervisor which has a significant adverse impact on the employee, or a change in the employee's duties or responsibilities which is inconsistent with the employee's grade and salary. It does not include an act or omission by a supervisor that is not subject to review by the Merit System Protection Board under Section 33- 12 of the Montgomery County Code.
- 1-55. Police Leadership Service (PLS): A program for merit system employees in Police Lieutenant



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Personnel Regulations	Number 25-19
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and Captain ranks who have responsibility for managing County Police Department programs and services or developing and promoting public policy for major programs and management functions, or both, that includes a broadband classification system, performance based pay, public safety pay, Police Department pay and professional development opportunities.

- 1-56. Position: A grouping of duties and responsibilities identified by a specific position number and assigned by the department director to be performed by an individual. The grouping of duties and responsibilities may be:
- (a) career, term, or temporary; and
 - (b) full-time or part-time.
- 1-57. Position description: A document signed by the employee's department director that provides basic data for the classification of a position, including a list of the duties and responsibilities assigned to the position.
- 1-58. Priority consideration: Consideration of a candidate for appointment, reassignment, or promotion to a vacant position before others are considered. It does not guarantee that the candidate will be selected for appointment, reassignment, or promotion.
- 1-59. Priority eligible list: The official list of applicants who have priority consideration and are eligible for reassignment or reemployment to a vacant position.
- 1-60. Probationary employee: A person who has not completed the required probationary period and gained merit system status and who is:
- (a) a new employee recently hired into a full-time or part-time County position; or
 - (b) a former temporary employee recently appointed to a full-time or part-time County position.
- 1-61. Probationary period: The initial period after employment during which an employee must demonstrate proper attitude and ability in order to be granted merit system status.
- 1-62. Professional improvement leave or PIL: Administrative leave or leave without pay for the



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

purpose of attending work-related conferences, training, or courses of study.

- 1-63. Project SEARCH Interns: A one-year job training program for young adults with intellectual and developmental disabilities who are either in their last year of high school or recent graduates in which these individuals serve as interns in County Departments and acquire marketable job skills.
- 1-64. Promotion: The formal assignment of an employee to a position:
- (a) in a higher-graded occupational class; or
 - (b) on a different salary schedule accompanied by an increase in salary. The reclassification or reallocation of a position to a higher-graded occupational class under Section 9 of these Regulations is not a promotion.
- 1-65. Promotional probationary period: A period immediately following the promotion of an employee during which the employee must demonstrate the ability to perform the duties of the new position in order to remain in that position.
- 1-66. QUEST (Quality, Understanding, Excellence, Success, and Training) Interns: A partnership program between the County and the Maryland Department of Education Division of Rehabilitation Services (DORS) in which County residents with disabilities serve as volunteer interns in County Departments and work on special projects that help them develop marketable job skills.
- 1-67. Rating categories: The 4 descriptive terms used to characterize the overall level of an employee's performance: "Exceptional Performance", "Highly Successful Performance", "Successful Performance", and "Does Not Meet Expectations".
- 1-68. Reduction-in-force or RIF: The elimination of a position because of:
- (a) lack of funds;
 - (b) change in an approved work program or plan;
 - (c) administrative reorganization; or



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Subject Personnel Regulations	Number 25-19
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(d) technological change that affects staffing needs.

1-69. Regular hourly salary: The regular hourly salary for an employee is an amount equal to the annual salary for the employee's position, divided by the number of work hours per year normally assigned to the position. Regular hourly salary is calculated on the basis of full-time salary and full-time work hours per year for a given position. Regular hourly salary must include all pay differentials that apply.

1-70. Relative: As used in these Regulations, includes:

- (a) the employee's immediate family as defined under Section 1 of these Regulations;
- (b) the employee's aunt, uncle, niece, nephew, or first cousin;
- (c) a sibling or grandchild of the employee's spouse or domestic partner; and
- (d) the spouse of a member of the employee's immediate family.

1-71. Review period: The time period during which an employee's performance is reviewed and for which an overall rating is prepared.

1-72. Salary schedule: A series of pay grades or pay bands and the salary rate or range for each pay grade or pay band approved by the County Council under Code Section 33-11 (b).

1-73. Seasonal position: A type of temporary position that:

- (a) does not involve year-round employment; and
- (b) may be used indefinitely to perform work usually associated with a particular season, such as removing snow or collecting fallen leaves.

1-74. Social Worker Interns at HHS: Educational program at the Department of Health and Human Services for graduate students currently enrolled in a Master's in Social Work (MSW) program at a university school of social work.

1-75. Step salary schedule: A salary schedule consisting of a number of fixed salary levels or "steps"



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

for each grade. An employee's pay is advanced from one fixed step on the schedule to the next upon the occurrence of an established event such as the employee's increment date.

- 1-76. Supervisor: The CAO and subordinate personnel who are authorized to perform supervisory functions.
- 1-77. Temporary employee: An incumbent of a temporary position.
- 1-78. Temporary position: A non-career position classified and filled under merit system principles.
- 1-79. Temporary promotion: The short-term, non-permanent assignment of an employee to:
- (a) a vacant position with a higher grade;
 - (b) a vacant position on a different salary schedule at a higher salary; or
 - (c) a higher-level position while the employee in the position is absent on extended leave.
- 1-80. Term employee: An incumbent of a term position.
- 1-81. Term position: A type of full-time or part-time career merit system position that is created for a special term, project, or program, or a position in which the incumbent's employment terminates at the expiration of a specified period of time or term.
- 1-82. Transfer: The movement or detail of an employee from one position or task assignment to another position or task assignment at the same grade or salary either within a department or office or between departments and offices that involves at least one of the following changes:
- (a) from one merit system position to another;
 - (b) from one salary schedule to another;
 - (c) in the physical location of the employee's job or position; or
 - (d) in duty assignment within the same occupational class.



MONTGOMERY COUNTY EXECUTIVE REGULATION

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Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

- 1-83. Uniformed fire/rescue employee: A uniformed employee of the Montgomery County Fire and Rescue Service who occupies a full-time or part-time merit system position.
- 1-84. Unrepresented employee: An employee whose position is not included in any bargaining unit.
- 1-85. USERRA: The 1994 Uniformed Services Employment and Reemployment Rights Act.
- 1-86. Volunteer Firefighter or Rescuer: A person who qualifies as a volunteer firefighter or rescuer as defined in Section 21-1 of the County Code.
- 1-87. Workday: A day on which the employee works or is scheduled to work.
- 1-88. Working days: All days except Saturdays, Sundays, and official or special County holidays.
- 1-89. Workweek or work period: Any repeating seven-day work schedule.

33.07.01.04 Records

- 4-6. Access to employee records.
 - (a) Official personnel file, department operating record, and supervisory file. A non-medical employee record is confidential and is available on a need-to-know basis to:
 - (1) the employee's department director, a person who supervises the work of the individual, or another person who is authorized by the Maryland Public Information Act to inspect the record;
 - (2) the CAO or designee;
 - (3) the OHR Director and staff;
 - (4) the County Attorney and staff;
 - (5) members and staff of the Merit System Protection Board (MSPB);
 - (6) a department head or designee who is considering offering the employee a position; and



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(7) the OLR Chief and staff.

(b) Medical record.

(1) An applicant's or employee's medical record is confidential.

(2) Access to all genetic information, as defined in Section 27-18 of the County Code, is restricted to the Employee Medical Examiner and supporting medical staff.

(3) If an evaluation of an individual's medical or physical condition is reasonably necessary to determine if reasonable accommodation is available for the individual or if the individual is employable, eligible for continued employment, or eligible for a benefit for which the employee has applied, the Manager of Occupational Medical Services or designee may provide or make available an employee's relevant non-psychological medical records (with the exception of genetic information) to the following persons only, and only if the persons are participating in one of the above-referenced decision making processes:

(A) the CAO or designee;

(B) the OHR Director and designated staff;

(C) the County Attorney and designated staff;

(D) members and designated staff of the MSPB;

(E) the Disability Review Panel;

(F) the Disability Arbitration Board or Police Disability Arbitration Board;

(G) Workers' Compensation administrators; and

(H) the OLR Chief and designated staff.

(4) If an applicant or employee has filed a grievance, filed an appeal to the MSPB, applied for a disability retirement, filed a claim for Workers' Compensation benefits, or



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otherwise filed a claim or complaint against the County in which the employee has made an issue of the employee's physical or medical condition, the Manager of Occupational Medical

Services or designee may provide or make available an employee's relevant non-psychological medical records (with the exception of genetic information) to the following persons only, and only if the persons are participating in the litigation or consideration of the claim or complaint:

- (A) the CAO or designee;
 - (B) the OHR Director and designated staff;
 - (C) the County Attorney and designated staff;
 - (D) members and designated staff of the MSPB;
 - (E) the Disability Review Panel;
 - (F) the Disability Arbitration Board or Police Disability Arbitration Board;
 - (G) County Workers' Compensation administrators, when relevant to a Workers' Compensation claim; and
 - (H) the OLR Chief and designated staff.
- (5) The Employee Medical Examiner or designee may disclose relevant, limited medical information to department first-aid and safety personnel if an immediate disclosure is necessary to provide for the emergency health care of an employee.
- (6) An employee's or applicant's psychological records are confidential. If an evaluation of an individual's mental health is reasonably necessary to determine if reasonable accommodation is available for the individual or if the individual is employable or eligible for continued employment, the Manager of Occupational Medical Services or designee may provide or make available an employee's psychological records (with the exception of genetic information) to the following persons only, and only if the persons



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are participating in one of the above-referenced decision making processes:

- (A) the CAO or a selected designee;
 - (B) the OHR Director and select designated staff;
 - (C) the County Attorney and select designated staff; and
 - (D) the OLR Chief and select designated staff.
- (7) If an employee has filed a grievance, filed an appeal to the MSPB, applied for a disability retirement, filed a claim for Workers' Compensation benefits, or otherwise filed a claim or complaint against the County in which the employee has made an issue of the employee's mental health, the Manager of Occupational Medical Services or designee may provide or make available an employee's relevant psychological records (with the exception of records of genetic information) to the following persons only, and only if the persons are participating in the litigation or consideration of the claim or complaint:
- (A) the CAO or a selected designee;
 - (B) the OHR Director and select designated staff;
 - (C) the County Attorney and select designated staff;
 - (D) members and designated staff of the MSPB;
 - (E) members and designated staff of the Disability Review Panel;
 - (F) members and designated staff of the Disability Arbitration Board or Police Disability Arbitration Board;
 - (G) County Workers' Compensation administrators, when relevant to a Workers' Compensation claim; and
 - (H) the OLR Chief and select designated staff.



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33.07.01.14 Employee Development

14-1. OHR-administered training. The OHR Director administers a centralized employee development and tuition assistance program for County employees to facilitate their professional and personal development.

* * *

(b) Centralized employee development.

(1) The OHR Director must:

- (A) administer the general training activities for County employees;
- (B) provide leadership development programs for County managers and supervisors;
and
- (C) monitor the use and cost of County employee development activities.

(2) Many employee development and training needs are generic and can be accommodated effectively and efficiently through a centralized program administered by OHR. The following are examples of employee development and training provided through the centralized program developed and administered by OHR:

- (A) leadership development (Leadership Institute, advanced seminars);
- (B) supervisory development classes;
- (C) customer service classes;
- (D) professional development classes;
- (E) human resources management classes;
- (F) performance management classes;



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- (G) labor relations classes (in conjunction with the Office of Labor Relations);
- (H) skill development classes (examples: writing and communication);
- (I) core mandatory classes (examples: sexual harassment prevention, and employee performance conduct);
- (J) information technology classes (examples: desk-top computer software, internet and web software, and core business systems); and,
- (K) self-directed study (examples: computer lab, and the audio and video loan library).

* * *

33.07.01.34 Grievances

34-1. Definitions.

- (a) Alternative dispute resolution or ADR: Methods, such as conciliation, mediation, settlement conferences, and peer review, for settling disputes more informally and quickly than through the grievance procedure described in Section 34-8.
- (b) CAO's designee: For the purposes of this section, an OLR staff member or other individual designated by the CAO.
- (c) Consolidated grievance: Two or more grievances that are filed by one employee or 2 or more different employees and which are processed as one grievance, if the grievances:
 - (1) concern the same subject; and
 - (2) request the same or similar relief.
- (d) Grievant: An employee or former employee who files a grievance.
- (e) Immediate supervisor: The individual responsible for the assignment and evaluation of an



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employee's work.

- (f) Informal resolution: Efforts made to resolve a grievance before the filing of a written complaint.
- (g) Party: An employee who files a grievance or the department that responds to the grievance.

* * *

34-3. Policy on grievances.

- (a) Objectives. The objects of the grievance-resolution process are to:

- (1) resolve grievances at the lowest level and provide an opportunity for resolution at each step;
- (2) provide for review and resolution of grievances by the immediate supervisor, department director, and CAO; and
- (3) provide specific and reasonable time limits for each level or step in the review of a grievance.

* * *

- (g) Use of official time to prepare and present a grievance.

* * *

- (4) If an employee's supervisor denies the employee's request for more than 4 hours of official time to prepare a grievance, the employee may appeal the supervisor's denial to the OLR Chief. The decision of the OLR Chief is final.

* * *

- (i) Confidentiality of documents and meetings associated with a grievance.

* * *



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- (2) The department director, OHR Director, OLR Chief, or CAO, as appropriate depending on the step of the grievance procedure, must ensure that only the following individuals are allowed to review the documents listed in (1), unless grievant has disclosed the grievance to others not listed below:
 - (A) the grievant;
 - (B) the grievant's representative; and
 - (C) individuals who are directly involved in responding to the grievance or resolving it.
- (3) Only the following may attend a grievance meeting or other grievance proceeding without the consent of the grievant:
 - (A) the grievant;
 - (B) the grievant's representative;
 - (C) individuals designated by the CAO, OHR Director, OLR Chief, or department director who are directly involved in responding to the grievance or resolving it;
 - (D) individuals designated by the CAO, OHR Director, OLR Chief, department director, or County Attorney to represent individuals who are directly involved in responding to the grievance or resolving it; and
 - (E) witnesses.
- (4) The OLR Chief must keep grievance files in OLR at least 2 years and then send them to the County Records Center for storage.
- (5) Despite the confidentiality requirements of this subsection, if the OLR Chief finds that a grievance filed by a bargaining unit employee is covered by the employee's collective bargaining agreement, the OLR Chief must notify the certified representative for the bargaining unit of the employee's name and the subject of the grievance.



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- (j) Disclosure of facts. Each party to a grievance must provide disclosure of facts known by or available to that party directly relating to the grievance, unless that information may be withheld under any other applicable law, regulation, or policy. The OLR Chief must resolve disputes that arise under this subsection.

* * *

34-6. Matters that are not grievable.

- (a) The following matters are not grievable:

- (1) a position classification;
- (2) performance ratings, except as provided for in 11-10;

* * *

- (b) An employee may appeal a decision that a matter is not grievable to the MSPB. An employee who wishes to appeal must file the appeal within 10 working days after the employee receives the OLR Chief's decision.

34-7. Investigation of complaints of harassment or retaliation for filing a grievance.

- (a) An employee may file a complaint with the OLR Chief if the employee was harassed or retaliated against by a supervisor or coworker for filing a grievance. The employee must include a written description of the harassment or retaliation.
- (b) The OLR Chief must investigate the complaint and give the employee a written report of findings within 30 calendar days after the OLR Chief receives the complaint.
- (c) The employee may file an appeal with the MSPB if the OLR Chief denies the complaint. The employee must file the appeal within 10 working days after the employee receives the OLR Chief's decision.

34-8. Alternative dispute resolution (ADR).



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- (a) Forms of ADR. The forms of ADR that are described below are available to the parties to a grievance.
- (1) Mediation. In mediation, a neutral party who has been trained as a mediator is designated by the OLR Chief to help the parties resolve a workplace dispute.
 - (2) Settlement conference. At a settlement conference, the parties to a dispute present information and arguments to a 3-person committee consisting of representatives of management, the employee, and OLR. After listening to the parties' presentations, the committee makes a recommendation to the parties to resolve the dispute.
 - (3) Peer resolution panel. In this form of ADR, a panel of no more than 3 trained Montgomery County employees is chosen by the grievant and the OLR Chief. The grievant picks the 1st panel member, the OLR Chief picks the 2nd member, and both pick the 3rd. The panel members may use one or more of the following to develop a recommendation to resolve the grievance:
 - (A) interviewing witnesses and reviewing documents;
 - (B) deciding if a policy or practice was applied correctly, fairly, and consistently;
 - (C) hearing brief presentations by the parties to the grievance; and
 - (D) issuing a non-binding advisory decision sustaining the grievance, denying the grievance, or modifying the action that is the subject of the grievance.
- (b) Ground rules for using ADR.
- (1) In any form of ADR, each party to a dispute must voluntarily agree to participate. The OLR Chief must determine if the County will participate.

* * *

34-9. Grievance procedure.

- (a) Time limit for filing a grievance.



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- (1) A grievance may be dismissed by the OLR Chief if it is not filed within 30 calendar days after:
 - (A) the date on which the employee knew or should have known of the occurrence or action on which the grievance is based; or
 - (B) the date on which the employee received notice, if notice of an action is specifically required by these Regulations.

- (2) If a grievant does not file the grievance at the next step of the grievance procedure within the time limits specified in the procedure, the OLR Chief may consider the grievance resolved on the basis of the most recent response and may end the consideration of the grievance.

* * *

- (6) The OLR Chief may extend the time limits stated in the grievance procedure for compelling reasons. The OLR Chief must give the parties prompt notice of an extension.
- (b) Technical and procedural review of grievances.
- (1) An employee must submit a written grievance on the OLR-approved grievance form (Appendix Q) and must provide the information requested on the form.
 - (2) The OLR Chief may return the grievance to the employee if the employee does not complete the grievance form or provide the information requested on the form.
 - (3) OLR staff is available to help employees complete the grievance form. In performing this function, OLR staff must not act as a grievant's representative or advocate.
 - (4) As instructed by the grievance form, an employee should send a copy of the grievance to OLR when the employee files the grievance at the first step of the grievance procedure.
 - (5) The OLR Chief must review the grievance and decide if the grievance:
 - (A) presents an issue that is grievable under 33.07.01.34, 34- 4;



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- (B) was timely filed; and
- (C) otherwise complies with this section.
- (6) If the grievance does not satisfy the requirements of 34-9(b)(5) the OLR Chief must dismiss the grievance.
- (7) The department that the grievance was filed against should not respond to the grievance if OLR advises the department that the issue is not grievable or the grievance is not timely filed.
- (8) A department director may use Appendix R to respond to the grievance.
- (9) The OLR Chief or CAO may reconsider issues of timeliness or grievability at any stage of the grievance process.
- (c) Consolidated grievances.
 - (1) The OLR Chief may consolidate 2 or more grievances and process them together to save time.
 - (2) OLR must give written notice to the employee or employees who filed the grievances that the grievances have been consolidated and will be processed together.
 - (3) If the employee gives written notice to the OLR Chief that the employee objects to the consolidation of the employee's grievance with other grievances, the OLR Chief must process the employee's grievance separately.
 - (4) If a consolidated grievance includes grievances from more than one department, the OLR Chief may designate one department director to respond to the consolidated grievance at Step 2 of the grievance procedure.
- * * *
- (e) Steps of the grievance procedure. The following table shows the 3 steps of the grievance procedure, the applicable time limits, and the responsibilities of the parties at each step.



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STEPS OF THE GRIEVANCE PROCEDURE

Step	Individual	Responsibility of individual*
1	Employee	Present job-related problem informally to immediate supervisor.
		If unable to resolve the problem, submit a written grievance on appropriate grievance form to immediate supervisor within 30 calendar days.
		If the grievance is based on an action taken or not taken by OLR, submit the written grievance to the OLR Chief.
	Department Director	Give the employee a written response within 15 working days after the written grievance is received.
2	Employee	If not satisfied with the department director's response, may file the grievance with the CAO by submitting it to OLR within 10 calendar days after receiving the department's response.
	CAO's Designee	Must meet with the employee, employee's representative, and department director's designee within 30 calendar days to attempt to resolve the grievance.
	Employee and Dept. Director	Present information, arguments, and documents to the CAO's designee to support their positions
	CAO's Designee	If unable to resolve the grievance, must provide the CAO with a report that includes background information, issue, the position and arguments of each party, a summary of relevant facts, and a recommended disposition.
	CAO	Must give the employee and department a written decision within 45 calendar days after the Step 2 meeting.
3	Employee	If not satisfied with the CAO's response, may submit an appeal to the MSPB within 10 working days (10 calendar days for a uniformed fire/rescue employee) after the CAO's decision is received.
	MSPB	Must review the employee's appeal under Section 35 of these Regulations

* At each step of the grievance procedure, the parties to a grievance should consider ADR methods to resolve the dispute.

(f) Request for a transcript of the Step 2 meeting.

(1) An employee may request a verbatim transcript of the Step 2 meeting by submitting a written request for a transcript to the OLR Chief at least 10 calendar days before the date



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of the Step 2 meeting.

- (2) The employee must agree to pay ½ of the cost of obtaining the transcript.
- (3) The OLR Chief must give a copy of the transcript to each party to the grievance or each party's representative.
- (g) Step 2 meeting.
 - (1) If the OLR Chief issues the decision on the grievance at the Step 1 level, the CAO must appoint a designee who is not a subordinate of the OLR Chief to conduct the Step 2 meeting.

* * *

33.07.01.35 Merit System Protection Board Appeals, Hearings and Investigations

* * *

35-8. Notification, response and submission of record in appeal.

- (a) The MSPB must promptly notify the CAO, County Attorney, OHR Director, OLR Chief, and department director in writing that a County merit system employee filed an appeal and provide the County Attorney and OLR Chief with a copy of the appeal.
- (b) The MSPB must promptly notify the CAO, County Attorney, OHR Director, OLR Chief, Fire Chief, and Local Fire and Rescue Department in writing that a volunteer firefighter or rescuer filed an appeal and provide the County Attorney, the OLR Chief and the head of the Local Fire and Rescue Department with a copy of the appeal.
- (c) An appellant must respond to an MSPB request for documentation in support of an appeal within 15 working days. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.
- (d) The OLR Chief and County Attorney must respond to an appeal filed by a County merit system employee within 30 calendar days and forward a copy of the action or decision appealed and all



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relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.

- (e) The OLR Chief and County Attorney must respond to an appeal filed by a volunteer firefighter or rescuer challenging an action taken by the Fire Chief within 30 calendar days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. In all other appeals filed by a volunteer firefighter or rescuer, the Local Fire and Rescue Department must respond within 30 calendar days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.

* * *

35-10. Appellant's right to review; right to hearing.

* * *

- (c) The appealing party, the County Attorney, and the OLR Chief must be served with a written notice of the time, date, and place of the prehearing conference.

* * *

35-16. MSPB decisions.

* * *

- (b) The MSPB must:
- (1) issue written decisions that set forth findings of fact and conclusions of law;
 - (2) include a statement of each party's appeal rights and the time limit for filing an appeal;
 - (3) send a copy of each decision to:
 - (A) the appellant or appellant's counsel of record;



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- (B) the CAO;
- (C) the County Attorney;
- (D) the OHR Director;
- (E) the OLR Chief;
- (F) the department director; and/or
- (G) the Fire Chief and the local fire and rescue department in a case where the appellant is a volunteer firefighter or rescuer.

- (c) An MSPB decision is final and binding unless appealed to a court of competent jurisdiction;
- (d) A court of competent jurisdiction may enforce an MSPB decision.

* * *



Marc Elrich, County Executive



Date

Approved as to form and legality:



Office of the County Attorney



Date



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APPENDIX Q: COUNTY GRIEVANCE FORM



Montgomery County, Office of Labor Relations Grievance Form for County Grievance Procedure

FILING INSTRUCTIONS – For more information about the County Grievance Procedure, contact the Labor/Employee Relations Team on 240-777-5114, review Section 34 of the County Personnel Regulations, or click here to go to Section 34.

1. Complete this form and give a copy, along with any supporting documentation, to your supervisor. Failure to provide your supervisor with a copy of your grievance may delay the process. Send one copy and any attachments to the Office of Human Resources, Labor/Employee Relations Team, 101 Monroe, Street, Rockville, Md. 20850.

2. Do/Will you have representation? If so, please provide name: _____
mailing address: _____ phone no.: _____

3. Would you be interested in Alternative Dispute Resolution? Yes ____ No ____

Failure to provide complete information may delay the processing of your grievance.

FILING INFORMATION: (Please Print Clearly)

Employee's Name: _____ Position Title: _____ Grade: _____
Department/Division/Section: _____ Immediate Supervisor: _____
Home Address: _____
Phone: Home: _____ Work: _____ E-mail address: _____

GRIEVANCE STATEMENT - You must cite the specific written policy, regulation, or treatment in which you believe a violation or inequity occurred. Please attach additional information if more space is needed. Failure to provide complete information may delay the processing your grievance.

RELIEF REQUESTED

Employee's Signature: _____ Date: _____



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DEPARTMENT/SUPERVISOR INFORMATION In order to respond to the employee's grievance, please complete the Grievance Response Form, which can be obtained from OHR, Labor Relations Team or online at the OHR Resource Library.



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APPENDIX R: COUNTY GRIEVANCE FORM



Montgomery County, Office of Labor Relations

DEPARTMENT/SUPERVISOR GRIEVANCE RESPONSE FORM

You are required to complete this form because an employee you supervise has filed a grievance. For more information about the County Grievance Procedure contact the Labor/Employee Relations Team on 240-777-5114, review Section 34 of the Montgomery County Personnel Regulations, or click here to go to Section 34.

SUPERVISOR'S RESPONSE:

Date Received _____

Supervisor's Name and Signature _____ Date _____

RESOLVED: Yes No (If not resolved, employee has ten calendar days upon receipt of response to appeal to next step.)

DEPARTMENT/AGENCY HEAD'S RESPONSE:

Date Received _____

Department Agency Head's Name and Signature _____ Date _____

Employee's Signature _____ Date _____

RESOLVED: Yes No (If not resolved, employee has ten calendar days upon receipt of response to appeal to next step.)

OHR DIRECTOR'S RESPONSE:

Date Received _____

OHR Director's Signature _____ Date _____

Employee's Signature _____ Date _____

RESOLVED: Yes No (If not resolved, employee has ten calendar days upon receipt of response to appeal to next step.)

CHIEF ADMINISTRATIVE OFFICER'S RESPONSE:

Date Received _____

Chief Administrative Officer's Signature _____ Date _____

RESOLVED: Yes No

A grievance may be appealed to the Merit System Protection Board within 10 working days of receipt of the Chief Administrative Officer's response.



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PERSONNEL REGULATIONS

Issued by: County Executive
Regulation No. 25-19
COMCOR No. 33.07.01

Authority: Montgomery County Code (2014) Section 33-7(b)

Supersedes: Executive Regulation 12-00AM (in part)

Council Review: Method (1) under Code Section 2A-15

Register Vol. 36 No. 7

Effective Date:

Comment Deadline: 7/12/19

Summary: This regulation amends the personnel regulations to include the newly created Office of Labor Relations.

Staff contact: Silvia Kinch, Chief, Division of Human Resources, OCA
(240) 777-6778

Address: Office of the County Attorney
Executive Office Building
101 Monroe Street, Third Floor
Rockville, Maryland 20850

Background: The Montgomery County Code authorizes the County Executive to promulgate personnel regulations.

COMCOR 33.07.01 PERSONNEL REGULATIONS

33.07.01.01 Definitions

1-1. ADA: The Americans with Disabilities Act, a Federal law enacted to address discrimination against individuals with disabilities.



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* * *

1-47. OLR: The Office of Labor Relations.

[1-47] 1-48. Overall rating: A summary rating in the employee's performance evaluation that best describes the employee's overall level of performance during the period covered by a performance plan.

[1-48] 1-49. Paid time off (PTO): A type of leave granted to MLS employees in the Retirement Savings Plan that may be used as sick or annual leave.

[1-49] 1-50. Part-time employee: An incumbent of a part-time position.

[1-50] 1-51. Part-time position: A career position, including a term position that:

- (a) requires employment for 20 to 39 regularly scheduled hours per week on a continuing year-round or school-year basis; or
- (b) is specially designated by the CAO and requires regular employment for 10 to 20 hours per week on a continuing year-round or school-year basis and approval by the Merit System Protection Board (MSPB).

[1-51] 1-52. Pay period: The official 2-week reporting period for time and attendance that determines the employee's biweekly compensation.

[1-52] 1-53. Performance evaluation: A supervisor's written evaluation of an employee's performance in relation to the expectations in the employee's performance plan. An evaluation may be an interim or annual evaluation. An interim evaluation may be conducted at any time during the review period.

[1-53] 1-54. Personnel action: An act or omission by a supervisor which has a significant adverse impact on the employee, or a change in the employee's duties or responsibilities which is inconsistent with the employee's grade and salary. It does not include an act or omission by a supervisor that is not subject to review by the Merit System Protection Board under Section 33- 12 of the Montgomery County Code.

[1-54] 1-55. Police Leadership Service (PLS): A program for merit system employees in Police Lieutenant



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and Captain ranks who have responsibility for managing County Police Department programs and services or developing and promoting public policy for major programs and management functions, or both, that includes a broadband classification system, performance based pay, public safety pay, Police Department pay and professional development opportunities.

[1-55] 1-56. Position: A grouping of duties and responsibilities identified by a specific position number and assigned by the department director to be performed by an individual. The grouping of duties and responsibilities may be:

- (a) career, term, or temporary; and
- (b) full-time or part-time.

[1-56] 1-57. Position description: A document signed by the employee's department director that provides basic data for the classification of a position, including a list of the duties and responsibilities assigned to the position.

[1-57] 1-58. Priority consideration: Consideration of a candidate for appointment, reassignment, or promotion to a vacant position before others are considered. It does not guarantee that the candidate will be selected for appointment, reassignment, or promotion.

[1-58] 1-59. Priority eligible list: The official list of applicants who have priority consideration and are eligible for reassignment or reemployment to a vacant position.

[1-59] 1-60. Probationary employee: A person who has not completed the required probationary period and gained merit system status and who is:

- (a) a new employee recently hired into a full-time or part-time County position; or
- (b) a former temporary employee recently appointed to a full-time or part-time County position.

[1-60] 1-61. Probationary period: The initial period after employment during which an employee must demonstrate proper attitude and ability in order to be granted merit system status.

[1-61] 1-62. Professional improvement leave or PIL: Administrative leave or leave without pay for the



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purpose of attending work-related conferences, training, or courses of study.

- [1-62] 1-63. Project SEARCH Interns: A one-year job training program for young adults with intellectual and developmental disabilities who are either in their last year of high school or recent graduates in which these individuals serve as interns in County Departments and acquire marketable job skills.
- [1-63] 1-64. Promotion: The formal assignment of an employee to a position:
- (a) in a higher-graded occupational class; or
 - (b) on a different salary schedule accompanied by an increase in salary. The reclassification or reallocation of a position to a higher-graded occupational class under Section 9 of these Regulations is not a promotion.
- [1-64] 1-65. Promotional probationary period: A period immediately following the promotion of an employee during which the employee must demonstrate the ability to perform the duties of the new position in order to remain in that position.
- [1-65] 1-66. QUEST (Quality, Understanding, Excellence, Success, and Training) Interns: A partnership program between the County and the Maryland Department of Education Division of Rehabilitation Services (DORS) in which County residents with disabilities serve as volunteer interns in County Departments and work on special projects that help them develop marketable job skills.
- [1-66] 1-67. Rating categories: The 4 descriptive terms used to characterize the overall level of an employee's performance: "Exceptional Performance", "Highly Successful Performance", "Successful Performance", and "Does Not Meet Expectations".
- [1-67] 1-68. Reduction-in-force or RIF: The elimination of a position because of:
- (a) lack of funds;
 - (b) change in an approved work program or plan;
 - (c) administrative reorganization; or



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(d) technological change that affects staffing needs.

[1-68] 1-69. Regular hourly salary: The regular hourly salary for an employee is an amount equal to the annual salary for the employee's position, divided by the number of work hours per year normally assigned to the position. Regular hourly salary is calculated on the basis of full-time salary and full-time work hours per year for a given position. Regular hourly salary must include all pay differentials that apply.

[1-69] 1-70. Relative: As used in these Regulations, includes:

- (a) the employee's immediate family as defined under Section 1 of these Regulations;
- (b) the employee's aunt, uncle, niece, nephew, or first cousin;
- (c) a sibling or grandchild of the employee's spouse or domestic partner; and
- (d) the spouse of a member of the employee's immediate family.

[1-70] 1-71. Review period: The time period during which an employee's performance is reviewed and for which an overall rating is prepared.

[1-71] 1-72. Salary schedule: A series of pay grades or pay bands and the salary rate or range for each pay grade or pay band approved by the County Council under Code Section 33-11 (b).

[1-72] 1-73. Seasonal position: A type of temporary position that:

- (a) does not involve year-round employment; and
- (b) may be used indefinitely to perform work usually associated with a particular season, such as removing snow or collecting fallen leaves.

[1-73] 1-74. Social Worker Interns at HHS: Educational program at the Department of Health and Human Services for graduate students currently enrolled in a Master's in Social Work (MSW) program at a university school of social work.

[1-74] 1-75. Step salary schedule: A salary schedule consisting of a number of fixed salary levels or "steps"



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for each grade. An employee's pay is advanced from one fixed step on the schedule to the next upon the occurrence of an established event such as the employee's increment date.

- [1-75] 1-76. Supervisor: The CAO and subordinate personnel who are authorized to perform supervisory functions.
- [1-76] 1-77. Temporary employee: An incumbent of a temporary position.
- [1-77] 1-78. Temporary position: A non-career position classified and filled under merit system principles.
- [1-78] 1-79. Temporary promotion: The short-term, non-permanent assignment of an employee to:
- (a) a vacant position with a higher grade;
 - (b) a vacant position on a different salary schedule at a higher salary; or
 - (c) a higher-level position while the employee in the position is absent on extended leave.
- [1-79] 1-80. Term employee: An incumbent of a term position.
- [1-80] 1-81. Term position: A type of full-time or part-time career merit system position that is created for a special term, project, or program, or a position in which the incumbent's employment terminates at the expiration of a specified period of time or term.
- [1-81] 1-82. Transfer: The movement or detail of an employee from one position or task assignment to another position or task assignment at the same grade or salary either within a department or office or between departments and offices that involves at least one of the following changes:
- (a) from one merit system position to another;
 - (b) from one salary schedule to another;
 - (c) in the physical location of the employee's job or position; or
 - (d) in duty assignment within the same occupational class.



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- [1-82] 1-83. Uniformed fire/rescue employee: A uniformed employee of the Montgomery County Fire and Rescue Service who occupies a full-time or part-time merit system position.
- [1-83] 1-84. Unrepresented employee: An employee whose position is not included in any bargaining unit.
- [1-84] 1-85. USERRA: The 1994 Uniformed Services Employment and Reemployment Rights Act.
- [1-85] 1-86. Volunteer Firefighter or Rescuer: A person who qualifies as a volunteer firefighter or rescuer as defined in Section 21-1 of the County Code.
- [1-86] 1-87. Workday: A day on which the employee works or is scheduled to work.
- [1-87] 1-88. Working days: All days except Saturdays, Sundays, and official or special County holidays.
- [1-88] 1-89. Workweek or work period: Any repeating seven-day work schedule.

33.07.01.04 Records

4-6. Access to employee records.

- (a) Official personnel file, department operating record, and supervisory file. A non-medical employee record is confidential and is available on a need-to-know basis to:
- (1) the employee's department director, a person who supervises the work of the individual, or another person who is authorized by the Maryland Public Information Act to inspect the record;
 - (2) the CAO or designee;
 - (3) the OHR Director and staff;
 - (4) the County Attorney and staff; [and]
 - (5) members and staff of the Merit System Protection Board (MSPB)[.];
 - (6) [A] a department head or designee who is considering offering the employee a



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position[.]; and

(7) the OLR Chief and staff.

(b) Medical record.

(1) An applicant's or employee's medical record is confidential.

(2) Access to all genetic information, as defined in Section 27-18 of the County Code, is restricted to the Employee Medical Examiner and supporting medical staff.

(3) If an evaluation of an individual's medical or physical condition is reasonably necessary to determine if reasonable accommodation is available for the individual or if the individual is employable, eligible for continued employment, or eligible for a benefit for which the employee has applied, the Manager of Occupational Medical Services or designee may provide or make available an employee's relevant non-psychological medical records (with the exception of genetic information) to the following persons only, and only if the persons are participating in one of the above-referenced decision making processes:

(A) the CAO or designee;

(B) the OHR Director and designated staff;

(C) the County Attorney and designated staff;

(D) members and designated staff of the MSPB;

(E) the Disability Review Panel;

(F) the Disability Arbitration Board or Police Disability Arbitration Board; [and]

(G) Workers' Compensation administrators[.]; and

(H) the OLR Chief and designated staff.



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- (4) If an applicant or employee has filed a grievance, filed an appeal to the MSPB, applied for a disability retirement, filed a claim for Workers' Compensation benefits, or otherwise filed a claim or complaint against the County in which the employee has made an issue of the employee's physical or medical condition, the Manager of Occupational Medical
- Services or designee may provide or make available an employee's relevant non-psychological medical records (with the exception of genetic information) to the following persons only, and only if the persons are participating in the litigation or consideration of the claim or complaint:
- (A) the CAO or designee;
 - (B) the OHR Director and designated staff;
 - (C) the County Attorney and designated staff;
 - (D) members and designated staff of the MSPB;
 - (E) the Disability Review Panel;
 - (F) the Disability Arbitration Board or Police Disability Arbitration Board; [and]
 - (G) County Workers' Compensation administrators, when relevant to a Workers' Compensation claim[.]; and
 - (H) the OLR Chief and designated staff.
- (5) The Employee Medical Examiner or designee may disclose relevant, limited medical information to department first-aid and safety personnel if an immediate disclosure is necessary to provide for the emergency health care of an employee.
- (6) An employee's or applicant's psychological records are confidential. If an evaluation of an individual's mental health is reasonably necessary to determine if reasonable accommodation is available for the individual or if the individual is employable or eligible for continued employment, the Manager of Occupational Medical Services or



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designee may provide or make available an employee's psychological records (with the exception of genetic information) to the following persons only, and only if the persons are participating in one of the above-referenced decision making processes:

- (A) the CAO or a selected designee;
 - (B) the OHR Director and select designated staff; [and]
 - (C) the County Attorney and select designated staff[.]; and
 - (D) the OLR Chief and select designated staff.
- (7) If an employee has filed a grievance, filed an appeal to the MSPB, applied for a disability retirement, filed a claim for Workers' Compensation benefits, or otherwise filed a claim or complaint against the County in which the employee has made an issue of the employee's mental health, the Manager of Occupational Medical Services or designee may provide or make available an employee's relevant psychological records (with the exception of records of genetic information) to the following persons only, and only if the persons are participating in the litigation or consideration of the claim or complaint:
- (A) the CAO or a selected designee;
 - (B) the OHR Director and select designated staff;
 - (C) the County Attorney and select designated staff;
 - (D) members and designated staff of the MSPB;
 - (E) members and designated staff of the Disability Review Panel;
 - (F) members and designated staff of the Disability Arbitration Board or Police Disability Arbitration Board; [and]
 - (G) County Workers' Compensation administrators, when relevant to a Workers' Compensation claim[.]; and



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(H) the OLR Chief and select designated staff.

33.07.01.14 Employee Development

14-1. OHR-administered training. The OHR Director administers a centralized employee development and tuition assistance program for County employees to facilitate their professional and personal development.

* * *

(b) Centralized employee development.

(1) The OHR Director must:

- (A) administer the general training activities for County employees;
- (B) provide leadership development programs for County managers and supervisors;
and
- (C) monitor the use and cost of County employee development activities.

(2) Many employee development and training needs are generic and can be accommodated effectively and efficiently through a centralized program administered by OHR. The following are examples of employee development and training provided through the centralized program developed and administered by OHR:

- (A) leadership development (Leadership Institute, advanced seminars);
- (B) supervisory development classes;
- (C) customer service classes;
- (D) professional development classes;
- (E) human resources management classes;



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- (F) performance management classes;
- (G) labor relations classes (in conjunction with the Office of Labor Relations);
- (H) skill development classes (examples: writing and communication);
- (I) core mandatory classes (examples: sexual harassment prevention, and employee performance conduct);
- (J) information technology classes (examples: desk-top computer software, internet and web software, and core business systems); and,
- (K) self-directed study (examples: computer lab, and the audio and video loan library).

* * *

33.07.01.34 Grievances

34-1. Definitions.

- (a) Alternative dispute resolution or ADR: Methods, such as conciliation, mediation, settlement conferences, and peer review, for settling disputes more informally and quickly than through the grievance procedure described in Section 34-8.
- (b) CAO's designee: For the purposes of this section, [a] an OLR staff member [of the Labor/Employee Relations Team] or other individual designated by the CAO.
- (c) Consolidated grievance: Two or more grievances that are filed by one employee or 2 or more different employees and which are processed as one grievance, if the grievances:
 - (1) concern the same subject; and
 - (2) request the same or similar relief.
- (d) Grievant: An employee or former employee who files a grievance.



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- (e) Immediate supervisor: The individual responsible for the assignment and evaluation of an employee's work.
- (f) Informal resolution: Efforts made to resolve a grievance before the filing of a written complaint.
- (g) Party: An employee who files a grievance or the department that responds to the grievance.

* * *

34-3. Policy on grievances.

- (a) Objectives. The objects of the grievance-resolution process are to:
 - (1) resolve grievances at the lowest level and provide an opportunity for resolution at each step;
 - (2) provide for review and resolution of grievances by the immediate supervisor, department director, and CAO; and
 - (3) provide specific and reasonable time limits for each level or step in the review of a grievance.

* * *

- (g) Use of official time to prepare and present a grievance.

* * *

- (4) If an employee's supervisor denies the employee's request for more than 4 hours of official time to prepare a grievance, the employee may appeal the supervisor's denial to the [OHR Director] OLR Chief. The decision of the [OHR Director] OLR Chief is final.

* * *

- (i) Confidentiality of documents and meetings associated with a grievance.



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- (2) The department director, OHR Director, OLR Chief, or CAO, as appropriate depending on the step of the grievance procedure, must ensure that only the following individuals are allowed to review the documents listed in (1)[without the grievant's written authorization], unless grievant has disclosed the grievance to others not listed below:
- (A) the grievant;
 - (B) the grievant's representative; and
 - (C) individuals who are directly involved in responding to the grievance or resolving it.
- (3) Only the following may attend a grievance meeting or other grievance proceeding without the consent of the grievant:
- (A) the grievant;
 - (B) the grievant's representative;
 - (C) individuals designated by the CAO, OHR Director, OLR Chief, or department director who are directly involved in responding to the grievance or resolving it;
 - (D) individuals designated by the CAO, OHR Director, OLR Chief, department director, or County Attorney to represent individuals who are directly involved in responding to the grievance or resolving it; and
 - (E) witnesses.
- (4) The [OHR Director] OLR Chief must keep grievance files in [OHR] OLR at least 2 years and then send them to the County Records Center for storage.
- (5) Despite the confidentiality requirements of this subsection, if the [OHR Director] OLR Chief finds that a grievance filed by a bargaining unit employee is covered by the employee's collective bargaining agreement, the [OHR Director] OLR Chief must notify



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the certified representative for the bargaining unit of the employee's name and the subject of the grievance.

- (j) Disclosure of facts. Each party to a grievance must provide [timely full] disclosure of facts known by or available to that party directly relating to the grievance, unless that information may [must not] be withheld [disclosed] under any other applicable law, regulation, or policy. The [OHR Director] OLR Chief must resolve disputes that arise under this subsection.

* * *

34-6. Matters that are not grievable.

- (a) The following matters are not grievable:

- (1) a position classification;
- (2) performance ratings, except [in cases of failure to follow established procedures] as provided for in 11-10;

* * *

- (b) An employee may appeal a decision that a matter is not grievable to the MSPB. An employee who wishes to appeal must file the appeal within 10 working days after the employee receives the [OHR Director's] OLR Chief's decision.

34-7. Investigation of complaints of harassment or retaliation for filing a grievance.

- (a) An employee may file a complaint with the [OHR Director] OLR Chief if the employee was harassed or retaliated against by a supervisor or coworker for filing a grievance. The employee must include a written description of the harassment or retaliation.
- (b) The [OHR Director] OLR Chief must investigate the complaint and give the employee a written report of findings within 30 calendar days after the [OHR Director] OLR Chief receives the complaint.
- (c) The employee may file an appeal with the MSPB if the [OHR Director] OLR Chief denies the



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complaint. The employee must file the appeal within 10 working days after the employee receives the [OHR Director's] OLR Chief's decision.

34-8. Alternative dispute resolution (ADR).

- (a) Forms of ADR. The forms of ADR that are described below are available to the parties to a grievance.
 - (1) Mediation. In mediation, a neutral party who has been trained as a mediator is designated by the [OHR Director] OLR Chief to help the parties resolve a workplace dispute.
 - (2) Settlement conference. At a settlement conference, the parties to a dispute present information and arguments to a 3-person committee consisting of representatives of management, the employee, and [OHR] OLR. After listening to the parties' presentations, the committee makes a recommendation to the parties to resolve the dispute.
 - (3) Peer resolution panel. In this form of ADR, a panel of no more than 3 trained Montgomery County employees is chosen by the grievant and the [OHR Director] OLR Chief. The grievant picks the 1st panel member, the [OHR Director] OLR Chief picks the 2nd member, and both pick the 3rd. The panel members may use one or more of the following to develop a recommendation to resolve the grievance:
 - (A) interviewing witnesses and reviewing documents;
 - (B) deciding if a policy or practice was applied correctly, fairly, and consistently;
 - (C) hearing brief presentations by the parties to the grievance; and
 - (D) issuing a non-binding advisory decision sustaining the grievance, denying the grievance, or modifying the action that is the subject of the grievance.
- (b) Ground rules for using ADR.
 - (1) In any form of ADR, each party to a dispute must voluntarily agree to participate. The [OHR Director] OLR Chief must determine if the County will participate.



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34-9. Grievance procedure.

(a) Time limit for filing a grievance.

- (1) A grievance may be dismissed by the [OHR Director] OLR Chief if it is not filed within 30 calendar days after:
 - (A) the date on which the employee knew or should have known of the occurrence or action on which the grievance is based; or
 - (B) the date on which the employee received notice, if notice of an action is specifically required by these Regulations.
- (2) If a grievant does not file the grievance at the next step of the grievance procedure within the time limits specified in the procedure, the [OHR Director] OLR Chief may consider the grievance resolved on the basis of the most recent response and may end the consideration of the grievance.

* * *

- (6) The [OHR Director] OLR Chief may extend the time limits stated in the grievance procedure for compelling reasons. The [OHR Director] OLR Chief must give the parties prompt notice of an extension.
- ### (b) Technical and procedural review of grievances.
- (1) An employee must submit a written grievance on the [OHR] OLR-approved grievance form (Appendix Q) and must provide the information requested on the form.
 - (2) The [OHR Director] OLR Chief may return the grievance to the employee if the employee does not complete the grievance form or provide the information requested on the form.
 - (3) [The] OLR staff [of the Labor/Employee Relations Team] is available to help employees



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complete the grievance form. In performing this function, OLR staff must not act as a grievant's representative or advocate.

- (4) As instructed by the grievance form, an employee should send a copy of the grievance to [OHR's Labor/Employee Relations Team] OLR when the employee files the grievance at the first step of the grievance procedure.
- (5) The [OHR Director] OLR Chief must review the grievance and decide if the grievance:
 - (A) presents an issue that is grievable under 33.07.01.34, 34- 4;
 - (B) was timely filed; and
 - (C) otherwise complies with this section.
- (6) If the grievance does not satisfy the requirements of 34-9(b)(5) the OLR Chief must dismiss the grievance.
- (7) The department that the grievance was filed against should not respond to the grievance if [OHR] OLR advises the department that the issue is not grievable or the grievance is not timely filed.

[(7)] (8) A department director may use Appendix R to respond to the grievance.

[(8)] (9) The [OHR Director] OLR Chief or CAO may reconsider issues of timeliness or grievability at any stage of the grievance process.

(c) Consolidated grievances.

- (1) The [OHR Director] OLR Chief may consolidate 2 or more grievances and process them together to save time.
- (2) [OHR] OLR must give written notice to the employee or employees who filed the grievances that the grievances have been consolidated and will be processed together.
- (3) If the employee gives written notice to the [OHR Director] OLR Chief that the employee



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objects to the consolidation of the employee's grievance with other grievances, the [OHR Director] OLR Chief must process the employee's grievance separately.

- (4) If a consolidated grievance includes grievances from more than one department, the [OHR Director] OLR Chief may designate one department director to respond to the consolidated grievance at Step 2 of the grievance procedure.

* * *

- (e) Steps of the grievance procedure. The following table shows the 3 steps of the grievance procedure, the applicable time limits, and the responsibilities of the parties at each step.

STEPS OF THE GRIEVANCE PROCEDURE

Step	Individual	Responsibility of individual*
1	Employee	Present job-related problem informally to immediate supervisor. If unable to resolve the problem, submit a written grievance on appropriate grievance form to immediate supervisor within 30 calendar days. If the grievance is based on an action taken or not taken by [OHR] <u>OLR</u> , submit the written grievance to the [OHR Director] <u>OLR Chief</u> .
	Department Director	Give the employee a written response within 15 working days after the written grievance is received.
2	Employee	If not satisfied with the department director's response, may file the grievance with the CAO by submitting it to [the Labor/Employee Relations Team of OHR] <u>OLR</u> within 10 calendar days after receiving the department's response.
	CAO's Designee	Must meet with the employee, employee's representative, and department director's designee within 30 calendar days to attempt to resolve the grievance.
	Employee and Dept. Director	Present information, arguments, and documents to the CAO's designee to support their positions
	CAO's Designee	If unable to resolve the grievance, must provide the CAO with a report that includes background information, issue, the position and arguments of each party, a summary of relevant facts, and a recommended disposition.
	CAO	Must give the employee and department a written decision within 45 calendar days after the Step 2 meeting.



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3	Employee	If not satisfied with the CAO's response, may submit an appeal to the MSPB within 10 working days (10 calendar days for a uniformed fire/rescue employee) after the CAO's decision is received.
	MSPB	Must review the employee's appeal under Section 35 of these Regulations
* At each step of the grievance procedure, the parties to a grievance should consider ADR methods to resolve the dispute.		

(f) Request for a transcript of the Step 2 meeting.

- (1) An employee may request a verbatim transcript of the Step 2 meeting by submitting a written request for a transcript to the [OHR Director] OLR Chief at least 10 calendar days before the date of the Step 2 meeting.
- (2) The employee must agree to pay ½ of the cost of obtaining the transcript.
- (3) The [OHR Director] OLR Chief must give a copy of the transcript to each party to the grievance or each party's representative.

(g) Step 2 meeting.

- (1) If the [OHR Director] OLR Chief issues the decision on the grievance at the Step 1 level, the CAO must appoint a designee who is not a subordinate of the [OHR Director] OLR Chief to conduct the Step 2 meeting.

* * *

33.07.01.35 Merit System Protection Board Appeals, Hearings and Investigations

* * *

35-8. Notification, response and submission of record in appeal.

- (a) The MSPB must promptly notify the CAO, County Attorney, OHR Director, OLR Chief, and department director in writing that a County merit system employee filed an appeal and provide the County Attorney and [OHR Director] OLR Chief with a copy of the appeal.



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- (b) The MSPB must promptly notify the CAO, County Attorney, OHR Director, OLR Chief, Fire Chief, and Local Fire and Rescue Department in writing that a volunteer firefighter or rescuer filed an appeal and provide the County Attorney, the [OHR Director] OLR Chief and the head of the Local Fire and Rescue Department with a copy of the appeal.
- (c) An appellant must respond to an MSPB request for documentation in support of an appeal within 15 working days. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.
- (d) The [OHR Director] OLR Chief and County Attorney must respond to an appeal filed by a County merit system employee within 30 calendar days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.
- (e) The [OHR Director] OLR Chief and County Attorney must respond to an appeal filed by a volunteer firefighter or rescuer challenging an action taken by the Fire Chief within 30 calendar days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. In all other appeals filed by a volunteer firefighter or rescuer, the Local Fire and Rescue Department must respond within 30 calendar days and forward a copy of the action or decision appealed and all relevant reports, papers, and documents to the MSPB. The MSPB may grant an extension of time for reasons that the MSPB considers good cause.

* * *

35-10. Appellant's right to review; right to hearing.

* * *

- (c) The appealing party, the County Attorney, and the [OHR Director] OLR Chief must be served with a written notice of the time, date, and place of the prehearing conference.

* * *

35-16. MSPB decisions.



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(b) The MSPB must:

- (1) issue written decisions that set forth findings of fact and conclusions of law;
- (2) include a statement of each party's appeal rights and the time limit for filing an appeal;
- (3) send a copy of each decision to:
 - (A) the appellant or appellant's counsel of record;
 - (B) the CAO;
 - (C) the County Attorney;
 - (D) the OHR Director;
 - (E) the OLR Chief;
 - (F) the department director; and/or

~~[(F)]~~[(G)] the Fire Chief and the local fire and rescue department in a case where the appellant is a volunteer firefighter or rescuer.

- (c) An MSPB decision is final and binding unless appealed to a court of competent jurisdiction;
- (d) A court of competent jurisdiction may enforce an MSPB decision.

* * *



Marc Elrich, County Executive

10/16/19

Date



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

Approved as to form and legality:


Office of the County Attorney

9/13/2019
Date



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Personnel Regulations	Number 25-19
Originating Department Office of Human Resources	Effective Date

APPENDIX Q: COUNTY GRIEVANCE FORM



Montgomery County, Office of Labor Relations Grievance Form for County Grievance Procedure

FILING INSTRUCTIONS – For more information about the County Grievance Procedure, contact the Labor/Employee Relations Team on 240-777-5114, review Section 34 of the County Personnel Regulations, or click here to go to Section 34.

1. Complete this form and give a copy, along with any supporting documentation, to your supervisor. Failure to provide your supervisor with a copy of your grievance may delay the process. Send one copy and any attachments to the Office of Human Resources, Labor/Employee Relations Team, 101 Monroe, Street, Rockville, Md. 20850.

2. Do/Will you have representation? If so, please provide name: _____
mailing address: _____ phone no.: _____

3. Would you be interested in Alternative Dispute Resolution? Yes ___ No ___

Failure to provide complete information may delay the processing of your grievance.

FILING INFORMATION: (Please Print Clearly)

Employee's Name: _____ Position Title: _____ Grade: _____
Department/Division/Section: _____ Immediate Supervisor: _____
Home Address: _____
Phone: Home: _____ Work: _____ E-mail address: _____

GRIEVANCE STATEMENT - You must cite the specific written policy, regulation, or treatment in which you believe a violation or inequity occurred. Please attach additional information if more space is needed. Failure to provide complete information may delay the processing your grievance.

RELIEF REQUESTED

Employee's Signature: _____ Date: _____



MONTGOMERY COUNTY EXECUTIVE REGULATION

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DEPARTMENT/SUPERVISOR INFORMATION In order to respond to the employee's grievance, please complete the Grievance Response Form, which can be obtained from OHR, Labor Relations Team or online at the OHR Resource Library.



MONTGOMERY COUNTY EXECUTIVE REGULATION

Offices of the County Executive • 101 Monroe Street • Rockville, Maryland 20850

Subject Personnel Regulations	Number 25-19
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APPENDIX R: COUNTY GRIEVANCE FORM



Montgomery County, Office of Labor Relations

DEPARTMENT/SUPERVISOR GRIEVANCE RESPONSE FORM

You are required to complete this form because an employee you supervise has filed a grievance. For more information about the County Grievance Procedure contact the Labor/Employee Relations Team on 240-777-5114, review Section 34 of the Montgomery County Personnel Regulations, or click here to go to Section 34.

SUPERVISOR'S RESPONSE:

Date Received _____

Supervisor's Name and Signature _____ Date _____

RESOLVED: Yes No (If not resolved, employee has ten calendar days upon receipt of response to appeal to next step.)

DEPARTMENT/AGENCY HEAD'S RESPONSE:

Date Received _____

Department Agency Head's Name and Signature _____ Date _____

Employee's Signature _____ Date _____

RESOLVED: Yes No (If not resolved, employee has ten calendar days upon receipt of response to appeal to next step.)

OHR DIRECTOR'S RESPONSE:

Date Received _____

OHR Director's Signature _____ Date _____

Employee's Signature _____ Date _____

RESOLVED: Yes No (If not resolved, employee has ten calendar days upon receipt of response to appeal to next step.)

CHIEF ADMINISTRATIVE OFFICER'S RESPONSE:

Date Received _____

Chief Administrative Officer's Signature _____ Date _____

RESOLVED: Yes No

A grievance may be appealed to the Merit System Protection Board within 10 working days of receipt of the Chief Administrative Officer's response.

Response to Questions from Councilmember Friedson

May 5, 2020

Office of Labor Relations:

1. Are all the positions from HR proposed to move into the Office of Labor Relations encumbered?

Yes

Are they currently performing the same labor relations functions they will be under the new management structure? **Yes**

2. Is there a reason why this action didn't occur following the Council's approval of the Chief Labor Relations Officer position and is now being introduced as emergency legislation? What significant public interest is being served by bypassing standard legislative processes to enact as emergency legislation?

There may have been a misunderstanding – it was not intended to be expedited legislation. As far as why this action didn't take place following the creation of the Chief Labor Relations Officer last year, it was because we decided to wait and submit this bill as part of the budget process.

3. What role did the Chief Labor Relations Officer play in this year's bargaining process and specifically what about the current structure inhibited his ability to serve the public interest and/or the county government?

The Chief Labor Relations Officer is the voice of the County in all labor relations matters and is responsible for managing and coordinating collective bargaining with the various unions. In this year's bargaining cycle, the Chief Labor Relations Officer directly negotiated agreements with MCGEO and the FOP, which included adopting a more collaborative negotiation process called interest-based bargaining for the first time in County history. He also provided guidance on the County's negotiation strategy and authority to the lead negotiator in the negotiations with the IAFF. Currently, the Chief Labor Relations Officer has a staff of employees who are responsible for implementing the County's labor relations policies and assisting in the development and negotiation of the County's bargaining positions. These employees are currently situated in the Office of Human Resources, whereas the Chief Labor Relations Officer sits within the Office of the County Executive. The creation of the Office of Labor Relations harmonizes the internal organizational structure. The establishment of the Office of Labor Relations also demonstrates the County's commitment to strengthen the relationship with the unions. This was one of the very reasons the Chief Labor Relations Officer position was created, and this legislation supports that aim.

4. Are there plans to make any changes to the roles/responsibilities/position descriptions that are proposed to be moved under the Chief Labor Relations Officer?

Generally, the roles, responsibilities and position descriptions have remained the same. However, there is the possibility that certain position titles will be modified from HR Specialist to Labor Specialist to reflect the relocation of the position from the Office of Human Resources to Office of Labor Relations. The classification and compensation associated with the positions remain unchanged and the Chief Labor Relations Officer anticipates that the position descriptions will have few substantive changes. The Chief Labor Relations Officer has implemented a new internal structure to divide the responsibilities of the Office in a more efficient manner between collective bargaining/collaborative program and contract management/grievances/employee relations.

If so, who will the Chief Labor Relations Officer oversee those changes, and when should we expect them to occur?

The internal re-organization has already been implemented. The position title modifications will be coordinated with the Office of Human Resources. The Chief Labor Relations Officer anticipates any changes will be completed during the next fiscal year.

Business Advancement Team:

5. Last year's reorganization was focused on the RSC's being better utilized to more proactively serve local businesses. It was predicated, based on my understanding, on the idea that the RSC staffs were already doing much of this work, had been understaffed following the Great Recession, and were better equipped to do outreach to local businesses because they were in the community rather than in the EOB. This approach appears to be a departure from that effort. Could you explain the change in direction/approach or if the two approaches are, in fact, philosophically aligned?

Last year, the RSC Directors received the additional staffing of the Business Solutions Group (BSG) to work physically at their locations. The BSG served as an onsite presence since the BSG provides community services including outreach to local businesses. This does not change with the Business Advancement Team (BAT). This change enhances the BSG in two distinct ways. First, it allows them to have one distinct leadership figure and structure, as the Manager of the Business Advancement Team will oversee the BSG. Secondly, it allows them to work closer staff members who share the same or similar focus on small and local business support and programming. There is not a change in approach. The team that was physically relocated to the RSCs will remain there; these two approaches are philosophically aligned.

6. Where will the Business Advancement Team report for work on regular business days (once we are back to a normal work environment)?

The Business Advancement Team will be located in two places. The Business Solution Group will remain at their respective RSCs to continue providing direct services to those in the community in various parts of the County. The other staff in the EOB will remain in their current space in the CEX and finance offices until a space that is large enough to co-locate everyone together is identified. If telework is increased based on the COVID-19 crisis, then it is

possible office space may be freed up. Until then, we will use technology and communication to ensure the team stays connected.

7. For the positions from Finance, were the Conference Center, EDF and Incubator positions doing similar roles in Finance and are just being moved to CEX to perform those functions as part of this new team? Or are the roles changing? Please explain.

These roles are staying the same. This realignment is a chance to bring pre-existing small/local business and economic development roles closer together under the same leadership to better coordinate among those with similar professional portfolios.

8. Are there any changes to the roles and responsibilities being transferred from the Community Engagement Cluster? **No**

9. What is the reporting structure of the Team?

This team will report to the Business Advancement Team Manager, who will be Tina Benjamin. There will also be oversight of the Business Advancement Team from Assistant Chief Administrative Officer, Jerome Fletcher.

Only the duties of the Small business Navigator are specifically delineated. Is there a reason why other positions aren't similarly prescribed in the legislation?

The original legislation only outlined the duties of the Small Business Navigator. This legislation builds off the legislation that created the Small Business Navigator and the other roles. This approach was taken, after close coordination with Mr. Drummer and the County Attorney, to codify creation of this new unit within Office of the County Executive and clarify other roles. I am sure, Mr. Drummer and Mr. Hansen can explain further.

Does anyone report to the Small Business Navigator or are those responsibilities exclusively tied to that position? **No one reports to the Small Business Navigator.**

10. Are all positions expected to be part of this Team encumbered? **Yes**

11. My understanding was that a deputy was to be named. Has that candidate been identified? Is that a new position or someone moving in from an existing position?

There will be an Assistant Manager role that will be filled from someone in an existing County position in order to not create a need for new funding for a new FTE.

12. My understanding was that the Master Plan Coordinator(s) was to be part of this group. Perhaps I missed it but didn't see those functions as part of the responsibilities of the office. If I didn't miss it, is there a change expected to those functions/roles as are currently being performed?

The Master Plan Coordinator(s) will not be a direct part of this group. It was decided that those duties did not closely align with the members of the Business Advancement Team. However the Business Advancement Team will work closely with the Master Plan Coordinators on all relevant issues. There is no expected change in those functions/roles currently being performed.

13. For the following on Lines 30-32, C(5) will there be a regular report published?

This particular task is an ongoing function of the Small Business Navigator. The BAT can identify specific actions taken in regard to changes in regulations and requirements in its Annual Report, due on September 15th of each year.

"identify changes to regulations and requirements that would improve turnaround, eliminate duplication, resolve conflicts in authority, and eliminate unnecessary regulations and requirements"

14. On line 45, what does "providing leadership and oversight of business programs" mean from a day-to-day perspective?

It means enhanced communication and coordination of the various staff and programs. There will be one central figure to ensure information is shared and assignments are not missed and more likely to fall through the cracks without a central office structure.

Director of Strategic Partnerships:

15. Is this position currently filled? **No** If not, who is carrying out the duties of overseeing the Criminal Justice Coordinating Committee? **Assistant Chief Administrative Officer Caroline Sturgis**

16. How does this role differ from those currently being performed by a Special Assistant? Is there a plan to change the roles and responsibilities for that existing role?

As you know, a Special Assistant currently is a liaison to the Council as well as the person responsible for all boards, committees, and commissions and is also the executive contact on the public safety towers, as well as numerous other projects. Because the responsibilities for the executive director of the CJCC did not constitute full-time work, the former executive director also handled numerous encounters and issues for the public in a variety of areas. Those responsibilities and functions have been added to the duties of the Special Assistant so that they can be managed more coherently. In addition, the Special Assistants work with the Correspondence Manager to understand existing issues and resolve them as needed.

17. How does this new role "Director of Strategic Partnerships" differ from the Special Assistant role?

Please see above and below.

18. If the position is not needed and the duties can be easily absorbed by an existing position, why isn't the position being eliminated as part of the CE's restructuring plan to "right size" county government? How does this action comply with the Council's expressed intent for a continuity of services approach to the budget?

The position as it was previously structured did not make full use of existing resources; it was too narrowly focused and as discussed above, the Executive Director ended up handling other issues that are better addressed by Special Assistants and others. In terms of "continuity of services", this is an existing position, it is being put to better use. We think this position can

be helpful in being more responsive to the community and council. The Director of Strategic Partnerships will be focused on engaging with the Council, helping coordinate responses and communication in a timely manner. The Director will also be in regular contact with community partners so that we understand the needs and actions and respond efficiently and effectively.

Chief Digital Officer:

Soon, we will be submitting the formal legislative package for the Chief Digital Officer. When we send the package, we will also send comprehensive answers to these questions. Thank you.

19. Please explain the rationale for this move. Last year, we were asked – on an emergency basis, as well – to create this position, specifically in the CEX, in order to elevate the issues of data security and other strategic technology issues outside the day-to-day technological capacity for which the Director of Technology Services is focused on a daily basis.
20. Please explain, after not filling the position for a year, what caused the change and why, and how the needs identified last year which required emergency legislation will be better served with this completely different approach.

Civilian Asst. Chief of Police:

21. I didn't see this on your chart but was under the impression it was part of this package. Could you please confirm?

No, this item has not been submitted to the Council yet as the executive regulation for the position description was posted in the April register and closed on April 30th. The item will be submitted to Council later this week.

22. Is this a new position? Repurposing of an existing position? If repurposing of an existing position, does it impact policing/eliminate a sworn officer from the department? If new, how is it revenue neutral?

This is a new position; the funding will be supported by abolishing a vacant Police Captain position. The Civilian Assistant Chief will oversee a newly created bureau within the Department, the Community Relations Bureau. When this bureau is created, several currently existing divisions will be transferred into this bureau to increase oversight and limit span of control to ensure quality of services. The current plan is to transfer the Community Engagement Division, Policy and Planning Division, and the Public Information Office into this new bureau. In addition, the Police Department is planning to merge the School Resource Officer program into the Community Engagement Division. Finally, this Assistant Chief would research and implement evidence-based policing models through the entire department via the Policy and Planning Division. By taking these programs from existing bureaus, it will reduce the span of control for three of the current bureau Chiefs. However, the actual reduction in span of control for each of the bureaus would be minor, because the transferred

divisions are relatively small in comparison to others in the department. A vacant Police Captain position is being abolished to ensure that the creation of the fifth Assistant Chief (Civilian) position will be close to cost neutral. The average cost of a Police Captain (Midpoint salary = \$129,765) is roughly equivalent to the cost of a new Civilian Assistant Chief assuming a mid-point hire (Midpoint salary = \$157,505). Given the minor variance and unknown hiring salary this action is not expected to have a material impact on County expenditures.

23. Do we have a position description? **Yes. It will be submitted with the legislation.**

What professional background will be required?

The position requires at least 7 years of progressively responsible leadership experience, of which 5 years were in a management level capacity. Work in police/law enforcement environment is preferred. The educational requirement is a Bachelor's Degree in public administration, public policy, business administration, criminal justice, law or related field from an accredited college or university. An equivalent combination of education and experience may be substituted.

Will the Chief select the individual or will the CE/CAO?

The Chief will nominate the individual, the CE will select the final candidate, and the Council will approve and confirm the individual.